

## **REMARKS**

Reconsideration of the application, as amended, is respectfully requested.

### **I. STATUS OF CLAIMS**

Claims 22-40 are pending in this application. Claims 25-27 and 32-36 have been allowed. Independent claims 22 and 37 have been amended to further clarify that the swipe card reader is adapted to receive (claim 22) or read (claim 37) information from a swipe card for activating one or more functions of the amusement device, wherein said one or more functions activated comprises at least one of activation of movement of the device and activation of a defense for the device. Claims 28-31 have been canceled without prejudice. New claims 39 and 40 have been added. It is respectfully submitted that no new matter has been added by virtue of this amendment. Support for the new and amended claims may be found throughout the specification as originally filed. In particular, support for the new and amended claims may be found on page 7, lines 14-23, page 17, lines 13-24, page 24, lines 12-page 25, lines 1-2, and Appendix B of the present specification.

### **II. ELECTION/RESTRICTIONS**

Applicants note that non-elected claims 28-31 have been canceled herewith without prejudice.

### **III. REJECTIONS UNDER 35 U.S.C. § 103(a)**

Claims 22-23 and 37-38 were rejected under 35 U.S.C. 103 (a) over U.S. Patent No. 5,768,223 to Li et al (“the Li patent”) in view of U.S Patent No. 5,446,791 to Wooley et al. (“the Wooley patent”).

Initially, Applicants acknowledge with appreciation the Examiner's indication in the instant Office Action that claims 25-27 and 32-36 have been allowed.

As noted above, independent claims 22 and 37 have been amended to further

clarify that the swipe card reader is adapted to receive (claim 22) or read (claim 37) information from a swipe card for activating one or more functions of the amusement device, wherein said one or more functions activated comprises at least one of activation of movement of the device and activation of a defense for the device .

It is respectfully, asserted that the combination of Li and Wooley fails to teach or suggest an amusement device wherein the swipe card reader is adapted to receive (claim 22) or read (claim 37) information from a swipe card for activating one or more functions of the device, wherein the one or more functions activated comprises at least one of activation of movement of the device and activation of a defense for the device, as required by amended independent claim 22 and claim 37.

As conceded by the Examiner, the Li patent fails to describe a swipe card reader as required by amended claims 22 and 37. The Examiner attempts to cure the above deficiency by citing the Wooley patent, which the Examiner alleges discloses a swipe card reader used to synthesize commands for generating speech or sound in a variety of devices including games. The Examiner took the position that it would have been obvious to one skilled in the art to incorporate a swipe card reader for the card reader of Li for the purpose of providing an improved data storage and retrieval system which controls a voice or sound synthesizer.

Even if one skilled in the art were to incorporate the teachings of Wooley into the Li patent, they would still not arrive at the presently claimed invention. Clearly, the data swipe card teachings of the Wooley patent are limited to controlling voice or sound synthesizers. Thus by making the above combination, one skilled in the art may instead arrive at an amusement device, wherein a swipe card activates a voice or sound synthesizer. In any case, this combination would clearly not produce an amusement device in which the swipe card reader is adapted to read or receive information from a swipe card for activating one or more functions of the device, wherein the one or more functions activated comprises at least one of activation of movement of the device and activation of a defense for the device, as required by amended independent claims 22 and

Thus, for the reasons mentioned above, withdrawal of the rejections to claims 22 and 37 is respectfully requested. Since claim 23 depends from and incorporates all of the limitations of amended independent claim 22 and claim 38 depends from and incorporates all of the limitations of amended independent claim 37, these dependent claims are likewise patentable over the Li and Wooley patent combination and removal of the rejection to these claims are also requested. Moreover, new claims 39 and 40 are also patentable over the Li and Wooley patent combination because these claims depend from and incorporates all of the limitations of amended independent claims 22 and 37, respectively.

**Claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over the Li patent and Wooley patent as stated above and further in view of U.S. Patent No. 5,651,716 to Mowrer et al. ("the Mowrer patent").**

The Mowrer patent was cited by the Examiner as teaching that it is known in the art to provide armor which is attachable to the body of an amusement device.

In response, it is respectfully asserted that the above combination of the Li, Wooley and Mowrer patents fail to teach or suggest the amusement device recited in claim 24.

As stated above with regard to amended independent claim 22, the Li and Wooley patent combination fails to teach or suggest an amusement device in which the swipe card reader is adapted to read or receive information from a swipe card for activating one or more functions of the device, wherein the one or more functions activated comprises at least one of activation of movement of the device and activation of a defense for the device. Since claim 24 depends from and incorporates all of the limitations of independent claim 22, this dependent claim is likewise patentable over the Li and Wooley patent combination.

Moreover, the Mowrer patent clearly fails to cure the above deficiencies of the Li and Wooley patent combination. Rather, the Mowrer patent also at the very least fails to teach or suggest an amusement device in which the swipe card reader is adapted to read or receive information from a swipe card for activating one or more functions of the device, wherein the one or more functions activated comprises at least one of activation of movement of the device and activation of a defense for the device, as required by claim 24.

For the reasons set forth above, withdrawal of the rejection of claim 24 is respectfully requested.

#### IV. CONCLUSION

In view of the actions taken and arguments made it is believed that all pending claims as currently presented are now in condition for allowance. A Notice of Allowance is respectfully requested.

According to currently recommended Patent Office policy, the Examiner is requested to contact the undersigned at the telephone number provided below in the event that a telephone interview will advance the prosecution of this application. An early and favorable action is earnestly solicited.

Respectfully submitted,



Richard B. Klar  
Reg. No. 31,385

Law Office of Richard B. Klar  
28 East Old Country Road  
Hicksville, New York 11801  
(516) 827-0100